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SUBJECT: ELEVENTH SESSION OF THE SPECIAL COMMITTEE ON THE
CHARTER OF THE UNITED NATIONS

¶1. (SBU) BEGIN SUMMARY: The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization ("Charter Committee"), a sub-Committee of the General Assembly Legal Sixth Committee, held its annual meeting at UN Headquarters from February 7-15, 2007. The Committee or its working groups met February 7, 8, 9, 12, 14, and 15. Discussion focused on a number of long-standing proposals, including (a) a Russian working paper aimed at establishing basic conditions and criteria for the use of sanctions and other coercive measures; (b) a Russian working paper aimed at establishing criteria for UN peacekeeping operations; and (c) Cuban and Libyan working papers on strengthening the role of and enhancing the effectiveness of the UN.

¶2. (SBU) As in years past, attendance in the Charter Committee was sparse, with more than three quarters of the Membership generally not represented. Following presentations by the sponsoring State(s), there was limited discussion of the various proposals. The U.S., EU, or Japan objected to or expressed skepticism about the various proposals and urged the Committee not to consider issues that were being discussed or had been addressed by other bodies within the UN. Non-Aligned Movement (NAM) delegations, including Cuba, Iran, Libya, and Egypt, voiced support for continuing to discuss many of these long-standing proposals.
END SUMMARY.

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Maintenance of International Peace and Security
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¶3. (SBU) The Working Group of the Special Committee met on February 8 to consider the statements of the representatives of the Department of Political Affairs (DPA) and the Department of Economic and Social Affairs (DESA) concerning the report of the Secretary-General on the implementation of the provisions of the Charter of the United Nations related to assistance to third states affected by the application of sanctions. Some delegates noted that the report of the Secretary-General indicated that no sanctions committees had

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been approached for assistance by Member States affected by sanctions, while many NAM delegations continued to assert that the application of sanctions continues to have negative effects on third states. Representatives of DPA and DESA said the targeted nature of the sanctions regimes had resulted in minimizing unintended consequences on civilian populations and third states.

¶4. (SBU) The Russian Federation introduced a revised version of its working paper entitled "Basic Conditions and Criteria for the Introduction of Sanctions and Other Coercive Measures and Their Implementation." In introducing its paper, Russia said the paper had been revised significantly to reflect

delegations' concerns and new developments. The Russian delegation proposed that this newly revised document be adopted in the form of an annex to a General Assembly Resolution.

¶15. (SBU) Some delegations, including Cuba, Egypt, China, India, and Iran, expressed support for the proposal. Other delegations, including the U.S., EU, Japan, and Canada, expressed the view that the paper duplicates the work of other bodies. Moreover these delegations voiced concern that the proposed document would inappropriately constrain the Security Council's freedom of action. Although the Committee did not reach consensus on the Russian proposal, the Russian delegation said it would conduct additional consultations in hopes of achieving consensus. In the report on its session, the Special Committee recommended that it continue consideration of the revised working document at the next session.

¶16. (SBU) In introducing its 2002 proposal aimed at strengthening certain principles concerning the impact and application of sanctions, the Libyan Arab Jamahiriya noted that the Special Committee had considered the Libyan working paper on the impact and application of sanctions during its previous sessions. While certain elements of the Libyan document had been included in the Russian proposal, the Libyan delegation requested that their paper remain on the agenda of the Committee and be considered together with Russia's proposal. In particular, Libya reiterated its support for the provision of its proposal concerning payment of compensation to target or third states for damage caused by sanctions found to have been unlawfully imposed. Some delegations, including Algeria, Syria, and Iran, lent support for Libya's proposal.

¶17. (SBU) Discussion of the Russian Federation's Draft Declaration on the Basic Principles and Criteria for the Work

of the United Nations Peacekeeping Missions and Mechanisms for the Prevention and Settlement of Crises and Conflicts was limited. Russia acknowledged that a number of delegations had expressed concerns about the paper at the Committee's previous sessions and suggested that the Committee submit the paper to the Committee on Peacekeeping Operations (Fourth Committee). Some delegations, including Egypt and Sudan, expressed flexibility on whether the Special Committee should refer the Russian proposal to the Fourth Committee or keep the proposal on its agenda. The EU, however, maintained that that the Special Committee should not handle matters currently being examined by other bodies. The EU also pointed out that the proposal, in its current form, was not sufficiently advanced to constitute an outcome of the Special Committee. No consensus was reached on the Russian proposal. Instead, the Special Committee agreed to conclude consideration of the proposal by recommending that the Chairman of the Sixth Committee bring sections of the Report of the Special Committee referring to Peacekeeping Operations to the attention of the Chairman of the Fourth Committee.

¶18. (SBU) Cuba made introductory remarks in support of its long-standing proposal entitled "Strengthening of the Role of the Organization and Enhancing Its Effectiveness." Some delegations, including Egypt, Libya, Algeria, Syria, and Iran, expressed support for Cuba's working papers. On the other hand, the EU said the Committee should not consider Cuba's working papers, as doing so would duplicate work undertaken by the Ad Hoc Working Group on the Revitalization of the General Assembly.

¶19. (SBU) Libya also presented again its proposal on the strengthening of the role of the UN, and requested that it remain on the Committee's agenda. Algeria, Syria, and Iran expressed support for the Libyan proposal.

¶10. (SBU) Co-sponsors Belarus and the Russian Federation reiterated the importance of their 2005 working paper recommending that the General Assembly request an advisory

opinion from the International Court of Justice (ICJ) on the legal consequences of the use of force by states without prior authorization by the Security Council, except in the exercise of the right to self-defense. The co-sponsors underscored the need for an advisory opinion from the ICJ on this issue in light of new interpretations regarding the use of unilateral force and the need to protect key principles of the UN charter.

¶11. (SBU) Some delegations, including Egypt, Libya, Algeria, Iran, Lebanon, and China, expressed support for the proposal, noting that an advisory opinion from the ICJ would contribute to strengthening the principle of the non-use of force. Other delegations said the Committee should not consider the proposal. In particular, the European Union noted that the 2005 World Summit debate reaffirmed that the relevant provisions of the Charter were sufficient to protect international peace and security. Moreover, the EU questioned the proposal's vaguely formulated request to the ICJ. USUN questioned the need for such an opinion, noting the ICJ's heavy workload. While Colombia said the proposal would benefit from redrafting, it also argued that the Committee first would have to consider the legality of the request for an advisory opinion.

¶12. (SBU) Guyana, on behalf of the Rio Group, proposed the addition of an agenda item entitled "Consideration of the legal aspects of the reform of the United Nations," as the Rio Group had done at the Committee's 2005 session. The Rio Group did not circulate additional details in writing concerning its proposal. Guyana explained that the 2005 World Summit Outcome produced reform commitments that may have legal implications, which the Committee should consider. Some delegations, including Russia, Chile, and Morocco, supported the proposal. Other delegations, including China, noted that any new topic should not include the issue of an amendment to the Charter of the UN. The U.S., the EU, and Japan asked for more information on the specific contents of the proposal before evaluating its merits.

Repertory of Practice of United Nations Organs and Repertoire
of the Practice of the Security Council

¶13. (SBU) The Secretariat briefed the Working Group on the status of the preparation of the Repertory and the Repertoire, and its ongoing efforts to reduce their respective backlogs. With respect to the Repertory, the Secretariat reported that advance versions of a number of

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studies had been placed on the Internet, and that a full-text search-engine had been added to the website for the

Repertory. The Secretariat explained that some of the backlog had been eliminated as a result of ongoing collaboration with academic institutions. The Director noted that General Assembly resolution 61/38 called upon states to make contributions to the trust fund for the elimination of the backlog, but that no contributions had been made yet. The Secretariat appealed for donations to the trust fund, noting the Secretariat's January 26 note verbale requesting such contributions.

¶14. (SBU) Concerning the Repertoire, the Secretariat noted that it continued to pursue a two-track approach, focusing on the Security Council's contemporary practice while also ensuring progress in the coverage of the Council's practice in the previous decade. Delegations could request CD-ROMs of the published versions of the Repertoire and advanced versions posted on the Internet. The Secretariat also appealed to Member States to continue contributing to the trust fund for updating the Repertoire.

¶15. (SBU) At the conclusion of the meeting, the Committee agreed to recommend that the General Assembly: (1) commend

the Secretary-General for the progress in preparing studies of the Repertory and in updating the Repertoire; (2) reiterate its call for voluntary contributions to the trust funds for the Repertoire and the Repertory; and (3) call upon the Secretary-General to continue his efforts to update the two publications.

Working Methods of the Special Committee

¶16. (SBU) During discussion of the working methods of the Committee, Japan urged implementation of its working paper, adopted last year. Some delegations, including the U.S., expressed their desire to improve further the Committee's working methods to ensure that the Committee's work is efficient and avoids duplicating efforts underway elsewhere in the UN. Other delegations, including Cuba, Egypt, and the Russian Federation, argued that the Committee's failure to reach consensus on various proposals before it reflected some delegations' lack of political will, rather than the Committee's working methods.

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